

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA and
LESLIE FOUCHE-MUNOZ, Revenue
Officer,

Petitioners

v.

DEAN WATERS,

Respondent

No. C-09-1296 MMC

**ORDER GRANTING PETITION TO
ENFORCE INTERNAL REVENUE
SERVICE SUMMONS AND ORDERING
RESPONDENT TO COMPLY WITH
SUMMONS; VACATING JULY 10, 2009
HEARING**

Before the Court is petitioners' Verified Petition to Enforce Internal Revenue Service Summonses, filed March 25, 2009. Respondent Dean Waters ("Waters"), although served with a copy of the petition and a copy of the Court's March 26, 2009 order setting a briefing schedule on the petition, has not filed a response to the petition. Having read and considered the papers filed in support of the petition, the Court deems the matter suitable for decision on said submissions, VACATES the hearing scheduled for July 10, 2009, and rules as follows.

For the reasons stated in the petition, the Court finds enforcement of the summons attached to the petition as Exhibit A is proper. Further, the Court finds it unnecessary to conduct an evidentiary hearing on the matter, for the reason that Waters has failed to offer any evidence in opposition to the petition, much less evidence to support a finding that the

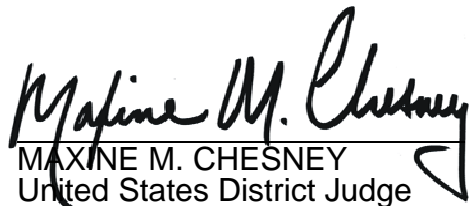
1 summons was "issued for an improper purpose." See Fortney v. United States, 59 F.3d
2 117, 121 (9th Cir. 1995) (holding party challenging issuance of Internal Revenue Service
3 summons not entitled to evidentiary hearing where party failed to offer evidence to support
4 finding IRS was not acting in good faith).

5 Accordingly, the petition is hereby GRANTED, and Waters is hereby ORDERED to
6 appear before Revenue Officer Leslie Fouche-Munoz, or any other designated agent of the
7 Internal Revenue Service, on Friday, July 31, 2009, at 9:00 a.m., at the Offices of the
8 Internal Revenue Service, 450 Golden Gate Avenue, 6th Floor, San Francisco, California,
9 94102, and then and there give testimony relating to the matters described in the subject
10 Internal Revenue Service summons, a copy of which is attached hereto as Exhibit A, and
11 produce for the Revenue Officer's inspection and copying the records described in the
12 attached Internal Revenue Service summons.

13 Failure to comply with the instant order may be grounds for a finding of contempt.
14 See, e.g., United States v. Ayres, 166 F.3d 991, 994-96 (9th Cir. 1999) (affirming finding of
15 contempt where party failed to comply with court order directing him to provide testimony
16 and produce records to IRS).

17 **IT IS SO ORDERED.**

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19 Dated: June 29, 2009

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MAXINE M. CHESNEY
United States District Judge